

**DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF LABOR STATISTICS & RESEARCH**455 Golden Gate Avenue, 9th Floor
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SHIFT PROVISIONS

FOR

OPERATING ENGINEER

FOR LANDSCAPE CONSTRUCTION PROJECTS

IN

ALAMEDA, ALPINE, AMADOR, BUTTE, CALAVERAS, COLUSA, CONTRA
COSTA, DEL NORTE, EL DORADO, FRESNO, GLENN, HUMBOLDT, KINGS,
LAKE, LASSEN, MADERA, MARIN, MARIPOSA, MENDOCINO, MERCED,
MODOC, MONTEREY, NAPA, NEVADA, PLACER, PLUMAS, SACRAMENTO,
SAN BENITO, SAN FRANCISCO, SAN JOAQUIN, SAN MATEO, SANTA
CLARA, SANTA CRUZ, SHASTA, SIERRA, SISKIYOU, SOLANO, SONOMA,
STANISLAUS, SUTTER, TEHAMA, TRINITY, TULARE, TUOLUMNE, YOLO,
AND YUBA COUNTIES

Note: The shift provisions provided in the following pages provide guidance on the work hours that are applicable to each shift. Shift differential pay is required and will be enforced during each applicable shift where shift differential pay is in the determinations. Any shift provision restricting the work hours for a particular shift for a type of work will not be enforced on public works. However, if work is performed during hours typically associated with a 2nd or 3rd shift the appropriate shift rate of pay is required. Shift differential pay shall not apply to work during traditional shift hour (swing or grave) if the determination includes a footnote that indicates that the non-shift rate may be paid for a special single shift. Please note the exemptions in California Code of Regulations Section 16200 (a)(3)(F) do not waive the shift differential pay. These regulatory exemptions only apply to overtime pay. Overtime shall be required in accordance with the determination and Labor Code Section 1810 through 1815.

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Department of Industrial Relations

OCT 27 2006

Div. of Labor Statistics & Research
Chief's Office

**MASTER AGREEMENT
FOR NORTHERN CALIFORNIA
BETWEEN
LANDSCAPE CONTRACTORS COUNCIL
OF NORTHERN CALIFORNIA
AND LOCAL UNION NO. 3
OF THE INTERNATIONAL UNION
OF OPERATING ENGINEERS, AFL-CIO**

THIS AGREEMENT, made and entered into this 26th day of June, 2006, and extended and amended on June 16, 1999, by and between the LANDSCAPE CONTRACTORS COUNCIL OF NORTHERN CALIFORNIA ("Employer") and OPERATING ENGINEERS LOCAL UNION NO. 3 of the International Union of Operating Engineers, AFL-CIO ("Union").

06.00.00 WORKING RULES

06.01.00 Five consecutive days of eight (8) consecutive hours (exclusive of meal period) for single or first shift Employees; and seven and one-half (7-1/2) consecutive hours (exclusive of meal period) for second shift Employees, and seven (7) consecutive hours (exclusive of meal period) for third shift Employees, Monday through Friday inclusive, shall constitute a week's work.

06.02.00 Not less than eight (8) hours at the applicable rate shall be paid for the work performed on any one (1) shift subject to Section 06.22.00 of this Section, except that on the first (1st) day of employment; on jobs of less than one (1) day's duration; on the last day of the job; and on any day that the work on a job or project is suspended on account of weather conditions, by written order of the Contracting Authority, or by any Governmental agency having the authority to

suspend the work, by the unavailability of fuel, power or water, and on days on which there is a major mechanical breakdown (i.e., Employees directly affected by such breakdown), not less than four (4) hours at the applicable rate shall be paid for work performed and any time thereafter shall be reckoned by the hour.

06.03.00 *Reckoning of Time.* Straight-time hours of employment shall be reckoned by the shift, except as otherwise provided in Section 06.02.00 above. Overtime hours of employment before and after a shift shall be reckoned by the hour and half-hour at the applicable overtime rate. Overtime on Saturdays, Sundays or holidays shall be reckoned as provided in Section 06.22.00. If an Employee quits work on his own, he shall be paid only for actual time worked.

06.03.01 Provided, however, in cases of emergency, Employees called out to work "the second half of the shift" during the normal straight-time hours shall receive not less than four (4) hours at the applicable overtime rate.

06.03.02 Employees who work on a chip seal job shall be paid not less than four (4) hours at the applicable rate. Work performed in excess of four (4) hours up to a full shift shall be reckoned by the hour.

06.04.00 On a single shift, eight (8) consecutive hours or ten (10) consecutive hours (exclusive of meal period) shall constitute a shift's work; the regular starting times of the single shift shall be between 5:00 a.m. and 9:00 a.m. An earlier or later starting time may be established by agreement between the Union and the Individual Employer. The Individual Employer shall not engage in any scheme, device or subterfuge to circumvent Sections 06.04.01 and/or 06.14.01, including, but not limited to changing Employees from one piece of equipment to another, or from one assignment to another, moving equipment and/or Employees from one work site to another, or using a different piece of equipment to perform the work.

06.04.01 The Heavy Duty Repairman and/or Welder performing a particular heavy duty repair assignment shall be given the first choice to perform the assignment before or after the shift.

06.04.02 *Paving, Soil Stabilization or Pipelaying Crews only.* The regular starting times of the single shift shall be between 5:00 a.m. and 9:00 a.m.

06.04.03 *Special Single Shift.* When the Individual Employer produces evidence in writing to the Union of a bona fide job requirement for a public agency or a public utility which certifies that some or all of work can only be done other than during the normal shift hours, and notifies the Union by Fax, E-mail or Certified Mail at least three (3) days prior to the start of such special shift (except in the case of emergency), the Individual Employer may initiate such special shift of eight (8) consecutive hours (not in conjunction with any other shift) (exclusive of meal period), Monday through Friday. Such shift shall be in accordance with the provisions of Section 06.02.00.

1. Provided, however, if, by direction of the Contracting Authority, the bid specifications require it, or congestive traffic conditions on Fridays are such that working conditions would be unsafe for Employees, or counter-productive to the performance of work, said special single shift may commence on Sunday, upon approval of the Union, with double (2) time to be paid up to and including 12:00 Midnight and the applicable straight-time rate paid from 12:00 a.m. until completion of the eight (8) -hour special single shift.
2. Flexible starting times shall be permitted for crews on a special single shift whenever an Operating Engineer Foreman is employed on the special single shift.

06.04.04 Employee's straight-time rate shall be the applicable wage rate set forth in 01.03.00, 01.03.01, 01.03.02, 01.03.03, 01.03.04 and 01.04.00 for Special Single Shift work.

06.04.05 For the purposes of this Section, Saturday shall begin at the close of the regularly established shift on Friday.

06.04.06 *Special Service and Maintenance Shift.* Upon written notice to the Union, an Individual Employer may initiate a special service and maintenance shift (not to include heavy duty repair) other than during the normal shift hours. The Employees' straight-time wage rate for all work on such special service and maintenance shift shall be the applicable wage rate set forth in Group 4 of this Agreement. For the purpose of this Section, changing filters and belts and making minor adjustments are not considered to be heavy duty repair.

Once an Individual Employer has established a starting time for a special service and maintenance shift, it shall not be changed except by mutual consent of the Union and the Individual Employer.

06.05.00 When two (2) shifts are employed for five (5) or more consecutive days (or less if by mutual written agreement), eight (8) consecutive hours (exclusive of meal period) shall constitute a shift's work for the first shift, for which eight (8) hours shall be paid; and eight (8) consecutive hours (exclusive of meal period) shall constitute a shift's work for the second (2) shift, for which eight (8) hours shall be paid, at the Second Shift Wage Rates set forth in Section 01.03.00. Such shifts shall run consecutively. The straight-time hours for the second shift shall commence not later than three (3) hours after the end of work (either straight time or regularly scheduled overtime) on the first shift. On two-shift operations, the first shift shall have regular starting time not earlier than 6:00 a.m., and not later than 8:00 a.m. Once such two-shift operation and starting time have been established, they shall not be terminated other than on a Friday (except upon completion of the job), provided that the starting times may be changed by mutual consent. Shift hours and the applicable straight-time or overtime rate shall be paid whenever shifts are worked under the above conditions including Saturdays, Sundays and holidays.

NOTE: A wage rate by Group is established for second (2nd) shift. Second Shift Wage Rates for Groups 1-8, Steel Erection and Piledriving are set forth in Sections 01.03.00, 01.03.01, 01.03.02, 01.03.03 and 01.04.00 and will be paid on the basis of eight [8] hours' work for eight [8] hours' pay.)

06.06.00 When three (3) shifts are employed for five (5) or more consecutive days (or less if by mutual written agreement), the first shift of the day shall work eight (8) consecutive hours (exclusive of meal period), for which eight (8) hours shall be paid. The second shift shall work seven and one-half (7-1/2) consecutive hours (exclusive of meal period) for which eight (8) hours shall be paid, and the third shift shall work seven (7) consecutive hours (exclusive of meal period) for which eight (8) hours shall be paid. Such shifts shall run consecutively. The straight-time hours for the third shift shall commence not earlier than the end of work and not later than one (1) hour after the end of work (either straight time or regularly scheduled overtime) on the second shift. On three-shift operations, the first shift of the day and of the workweek shall start at 8:00 a.m. Monday, and such workweek shall end with the closing of the third or graveyard shift Friday or at 8:00 a.m. Saturday, whichever is earlier, and 8:00 a.m. Monday shall be compensated for at the applicable overtime rate. Once established, shift rate shall apply on all work thereafter, including Saturdays, Sundays and holidays. Once such three-shift operations have been established they shall not be terminated other than on a Friday (except upon completion of the job).

06.07.00 On a single- and two-shift operation, Saturday shall be the twenty-four-hour period commencing at 12:00 midnight Friday or at the close of the regularly scheduled second shift, whichever is later. On a three-shift operation, Saturday shall run from the close of Friday's third or graveyard shift to 8:00 a.m. Sunday.

06.07.01 On a single- and two-shift operation, Sunday shall be the twenty-four-hour period commencing at 12:00 midnight Saturday or at the close of the regularly scheduled second shift, whichever is later. On a three-shift operation, Sunday shall run from 8:00 a.m. Sunday to 8:00 a.m. Monday.

06.07.02 The straight-time starting time for Employees on each shift shall be the same for all Employees employed on that shift.

06.08.00 On "Multiple-shift operations" (a two- [2] and/or three- [3] shift job), in addition to the two and/or three shifts, a single shift of eight (8) consecutive hours (exclusive of meal period) may be established, provided it is for five (5) or more consecutive days and has its own Operating Engineer Foreman where required, or if a Foreman is not required, is under separate supervision and further provided that on a two- or three-shift job such single shift is not related to and is not in conjunction with the work on the two- or three-shift operation. The regular starting time of such single shift shall be between 6:00 a.m. and 8:00 a.m.; provided, however, once such starting time has been established on a job or project, it shall not be changed except by mutual consent of the Union and the Individual Employer.

06.09.00 In the case of a multiple-shift operation, in no event shall the number of Employees on a second (2nd) or third (3rd) shift exceed the number of Employees on the first (1st) shift by more than fifty percent (50%). The foregoing may be modified by mutual agreement of the Union and an Individual Employer.

06.10.00 On multiple-shift operations, no shift shall work more than ten (10) hours, except in the event of an on-the-job emergency.

06.11.00 No single-shift Employee shall relieve a multiple-shift Employee, and no multiple-shift Employee shall relieve a single-shift Employee.

06.12.00 In the case of a multiple-shift operation, the Individual Employer will endeavor to fairly distribute overtime work on Saturdays, Sundays or holidays.

06.13.00 For the purposes of establishing shift operations, the Employees of the Individual Employer and the Employees of any subcontractor or other Individual Employer shall be considered separately.

06.14.00 No Employee shall work more than one (1) shift at straight time in any consecutive twenty-four (24) hours. No arrangement of shifts shall be permitted that prevents any Employee from securing eight (8) consecutive hours of rest in any consecutive twenty-four (24) hours. Such twenty-four (24) hours shall be computed from the start of the Employee's assigned shift.

06.14.01 Where there is equipment to be operated on a single-shift operation before the single shift begins or after it ends, or on a Saturday, a Sunday or a holiday, the Operating Engineer who regularly operates the particular piece of equipment shall be given first choice to perform the work, for not to exceed twelve (12) hours except in an emergency, and if an Assistant to Engineer is required, the Assistant to Engineer who is regularly assigned to the particular piece of equipment shall be given first choice to perform the work.

06.15.00 Where in any locality existing traffic conditions, weather conditions or power availability render it desirable to start the day shift at an earlier or later hour, such starting time may be set by mutual written agreement of the Individual Employer and the Union. Such different starting time may not be terminated except on a Friday or upon completion of the job.

